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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,791	09/26/2003	David E. Edgren	ARC 2813 D1 N1	9483
30766 7590 06/14/2007 DEWIPAT INCORPORATED P.O. BOX 1017 CYPRESS, TX 77410-1017			EXAMINER GEORGE, KONATA M	
			ART UNIT 1616	PAPER NUMBER
			MAIL DATE 06/14/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/672,791

Applicant(s)

EDGREN ET AL.

Examiner

Konata M. George

Art Unit

1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 36,39 and 43-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36,39 and 43-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

Claims 36, 39 and 43-48 are pending in this application.

### ***Action Summary***

1. The rejection of claims 36, 39 and 43-48 under 35 U.S.C. 103(a) over Wong et al. in view of Sumitomo Chem. Co. LTD. is being maintained for the reasons stated in the office action dated April 11, 2006.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
2. Claims 36, 39 and 43-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al. (US 5,667,804) in view of Sumitomo Chem. Co. LTD. (EP 0 088 556).

***Determination of the scope and content of the prior art***

**(MPEP §2141.01)**

Wong et al. teach in column 8, lines 23-36 a forming means for forming bands onto a dosage form. The bands may be placed or printed dosage forms. Column 11, lines 60 through column 12 teach that the bands may be formed on a Tait Capsealer machine. Page 15, lines 5-25 of the specification teach that the Tait Capsealer will align the groove circumscribed on the blank to form bands within the grooves. Printing wheels and transport mechanisms are taught on pages 16-19.

***Ascertainment of the difference between the prior art and the claims***

**(MPEP §2141.02)**

Wong et al. do not teach forming the bands in the grooves of blanks. It is for this that Sumitomo Chem. Co. LTD is joined.

Sumitomo Chem. Co. LTD. discloses tablets having an impressed valley portion into which a material may be deposited. The material to be deposited into the valley has no limitation as long as it is one usually used as coating for tablets (page 2, lines 17-22).

***Finding of prima facie obviousness***

***Rational and Motivation (MPEP §2142-2143)***

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the dosage blanks of Sumitomo Chem. Co. LTD. with the

invention of Wong et al. to arrive at the claimed invention. Sumitomo Chem. Co. LTD. teaches tablets having a valley wherein a material may be deposited thereon and Wong teaches a Tait Capsealer machine for putting band onto a blank. Therefore, it would be obvious to one of ordinary skill that the Tait Capsealer machine of Wong et al. would align the valley of the tablets from Sumitomo Chem. Co. LTD. and form bands thereon. The expected result would be a dosage form with a band having a distinct release characteristic.

### ***Response to Arguments***

3. Applicant's arguments filed August 11, 2006 have been fully considered but they are not persuasive.

Applicants argue that Wong et al. do not forming bands in the grooves of blanks and that the Tait Capsealer machine does fill in the grooves of the blanks. The examiner disagrees. As mentioned above, in column 11, line 60 through column 12, line 1, the Tait Capsealer forms bands onto a dosage form. It is the understanding of the examiner that the Tait Capsealer is a machine that form bands over a predetermine portion of the dosage form. If one of ordinary skill in the art used a Tait Capsealer to apply bands on the dosage form, it would have been obvious to one of ordinary skill to make sure that the grooves on the dosage form would align with the bands.

***Conclusion***

4. Claims 36, 39 and 43-48 remain rejected.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Telephone Inquiries***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Konata M. George, whose telephone number is 571-272-0613. The examiner can normally be reached from 8AM to 6:30PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter, can be reached at 571-272-0646. The fax phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private Pair system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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